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UNITED STATES DISTRICT COURT ☆ SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

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JAVIER TAPIA, INDIVIDUALLY, AND  
AS PERSONAL REPRESENTATIVE  
OF THE ESTATE OF A.W.T.; AND,  
JENNIFER WELBORN

*versus*

UNION PACIFIC RAILROAD CORP.  
UNION PACIFIC RAILROAD CO.; AND  
JOHN DOE.

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Case Number: 4:23-CV-00042

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NOTICE OF REMOVAL

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Please take notice that pursuant to 28 U.S.C. § 1441 *et seq.*, Defendants Union Pacific Corporation and Union Pacific Railroad Company, hereby remove the above-captioned case from the District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division, based on the following facts, which demonstrate the subject matter jurisdiction of this Court.

1. On December 12, 2022, Plaintiffs Javier Tapia and Jennifer Welborn filed their Complaint in the District Court of Harris County, Texas, Case No. 202280508, alleging various claims against Union Pacific Corporation and Union Pacific Railroad Company arising out of an incident involving their daughter that occurred on November 15, 2022, in or around Houston, Texas. Plaintiffs are asserting a wrongful death claim and survival claims in relation to the incident.

2. In accordance with Local Rule LR81, Union Pacific attaches the following documents in support of this Notice of Removal:<sup>1</sup>

Exhibit 1: All executed process in this case;

Exhibit 2: Plaintiff's Original Petition, which is the operative petition;

Exhibit 3: Docket Sheet; and

Exhibit 4: List of all counsel of record.

2. Both Union Pacific Corporation and Union Pacific Railroad Company were served with Plaintiffs' summons and complaint on December 14, 2022. *See* Ex. 1. As such, this Notice of Removal is filed within 30 days of receipt of the complaint and is timely. *See* 28 U.S.C. § 1446(b).

3. Union Pacific Corporation and Union Pacific Railroad Company remove this action to federal court pursuant to 28 U.S.C. § 1332, as the amount in controversy exceeds \$75,000 and the action is between citizens of different states.

4. The amount in controversy exceeds \$75,000.00. In the Complaint, Plaintiffs expressly pray for "monetary relief over \$1,000,000." Ex. 2, Orig. Pet. at pg 6. Accordingly, the amount in controversy exceeds \$75,000.00, exclusive of costs and interest.

5. There is complete diversity between Plaintiffs and Union Pacific Corporation and Union Pacific Railroad Company.

Union Pacific Corporation is a Utah corporation with its principal place of business in Nebraska. Accordingly, Union Pacific Corporation is a citizen of Utah and Nebraska for purposes of determining diversity. 28 U.S.C. § 1332(c)(1).

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<sup>1</sup> As of the time of filing of this Notice, there were no orders signed by the State Court Judge. Furthermore, in order to satisfy Local Rule LR 81's requirement of filing "[a]n index of matters being filed", counsel is providing this list of documents.

Union Pacific Railroad Company is a Delaware corporation with its principal place of business in Nebraska. Accordingly, Union Pacific Railroad Company is a citizen of Delaware and Nebraska for purposes of determining diversity. 28 U.S.C. § 1332(c)(1).

Plaintiffs are citizens of Texas. Ex. 2, Orig. Pet. at pg 6. Thus, at the time of the filing of the Complaint and at the present time, there is complete diversity.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) because it is the district and division embracing the place where the state court action is pending. 28 U.S.C. § 83(a)(3).

7. No previous application has been made for the relief requested herein.

8. This Notice of Removal has been served on all named parties to the removed case who have been properly served.

9. A written Notice of Filing of Notice of Removal, together with a copy of this Notice, will be filed with the Clerk of the Court for the District Court of Harris County, Texas, and will be served upon Plaintiffs, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendants, Union Pacific Corporation and Union Pacific Railroad Company, ask this Court to assume jurisdiction over this matter and for all other proper relief to which it is entitled.

*[SIGNATURE ON FOLLOWING PAGE]*

Respectfully submitted,



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*ATTORNEYS FOR UNION PACIFIC CORPORATION AND  
UNION PACIFIC RAILROAD COMPANY*

**CERTIFICATE OF SERVICE**

I, Daniel J. Gibson, attorney for Union Pacific Corporation and Union Pacific Railroad Company, hereby certify that on this 6th day of January 2023, I electronically filed this document via the Court's electronic filing system and e-mailed and mailed a copy via U.S. Mail to the following attorneys of record:

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